

## **603 KAR 10:002. Definitions for 603 KAR Chapter 10.**

RELATES TO: KRS 177.572-177.576, 177.830-177.890, 23 C.F.R. Part 750, 23 U.S.C. 103, 131

STATUTORY AUTHORITY: KRS 177.860, 23 U.S.C. 131

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.860 requires the Commissioner of the Department of Highways to promulgate administrative regulations establishing standards for advertising devices. KRS 177.890 authorizes the Commissioner of the Department of Highways to enter into agreements with the United States Secretary of Transportation in order to carry out national policy relating to interstate, defense, and federal-aid primary highways within the state. 23 U.S.C. 131, the Highway Beautification Act, authorizes retention of additional federal funding on the establishment of controls over the placement of outdoor advertising devices. This administrative regulation defines the terms used in 603 KAR Chapter 10.

Section 1. Definitions. (1) "Abandoned" or "discontinued" means that for a period of one (1) year or more an advertising device has:

- (a) Not displayed advertising matter;
- (b) Displayed obsolete advertising matter;
- (c) Needed substantial repairs due to lack of maintenance; or
- (d) Only advertised for the sale, rent, or lease of the advertising device.

(2) "Activity boundary line" means the delineation on a property of those regularly used buildings, parking lots, storage, and process areas that are integral and essential to the primary business activity that takes place on the property.

(3) "Advertising device" is defined by KRS 177.830(5).

(4) "Centerline of the highway" means a line:

(a) Equidistant from the edges of the median separating the main-traveled ways of a divided:

- 1. Interstate;
- 2. Parkway;
- 3. National highway system; or
- 4. Federal-aid primary highway; or
- (b) That is the centerline of the main-traveled way of a nondivided:

- 1. Interstate;
- 2. Parkway;
- 3. National highway system; or
- 4. Federal-aid primary highway.

(5) "Commercial or industrial activities" is defined by KRS 177.830(9).

(6) "Commercial or industrial land use" means an activity in a zoned area within 660 feet of the interstate or parkway right of way carried on for financial gain but not including:

- (a) The leasing of property for residential purposes;
- (b) An activity conducted in a building principally used as a residence;
- (c) An agricultural, forestry, ranching, grazing, farming, or related enterprise, including a wayside fresh produce stand;
- (d) Operation, maintenance, or storage of an advertising device;
- (e) A railroad track or minor siding; or
- (f) A facility generally recognized as a utility such as a cell tower.

(7) "Commercial or industrial zone" means an area adjacent to a highway zoned to permit business, commerce, or trade as established in local ordinance or regulation.

(8) "Conditional permit" means a permit issued by the department that requires the removal

of one (1) or more existing advertising devices prior to construction activity at the permitted location.

(9) "Department" means the Department of Highways within the Kentucky Transportation Cabinet.

(10) "Destroyed" means a nonconforming advertising device requiring repair due to weather related events, vandalism, or other criminal or tortious acts.

(11) "Electronic advertising device":

(a) Means an advertising device with a message that is changed by an electronic or mechanical process or remote control, including rotating cubes, rotating vertical triangular slats, turning lights on and off, glow cubes, light emitting diodes, cathode ray tubes, and florescent discharge or other similar technology; and

(b) Does not mean a numerical display changed by an electronic or mechanical process not exceeding one-half of the message face.

(12) "Enlargement" means an addition to the permitted area of the facing of an advertising device.

(13) "Erect":

(a) Means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or bring into being or establish; and

(b) Does not mean the change of a message or routine maintenance.

(14) "Extension" means an addition to an advertising device that is temporary, subject to specific size requirements, and removed with the message.

(15) "Face" means the part of the advertising device including trim and background that contains the message and informative content.

(16) "Facing" means the faces displayed on the same advertising device and oriented in the same direction of travel.

(17) "Federal-aid primary highway" is defined by KRS 177.830(3) and pursuant to 23 U.S.C. 131 refers to the existence of the highway on June 1, 1991.

(18) "Highway" means:

(a) An interstate, parkway, national highway system, or federal-aid primary highway depicted by the Transportation Cabinet on <http://maps.kytc.ky.gov/PAFOA/>; and

(b) A public road maintained by the department.

(19) "Interstate" is defined by KRS 177.830(2).

(20) "Main traveled way":

(a) Means the traveled way of a highway on which through traffic is carried; and

(b) Does not mean frontage roads, turning roadways, or parking areas.

(21) "Nit" means a unit of measurement of luminance used to specify the brightness or the intensity of visible light in an electronic advertising device.

(22) "Non-billboard" means an off-premise advertising device located on a federal-aid primary highway or a national highway system highway that is not located on the property it is advertising and is limited to advertising for a city, church, or civic club located within the community in which the advertising device is erected.

(23) "Nonconforming advertising device" means an off-premise advertising device that at one (1) time was lawfully erected but does not comply with a:

(a) Current state law or administrative regulation; or

(b) Changed condition such as:

1. A change in zoning;

2. The relocation or reclassification of a highway;

3. A change in restriction on size, space, or distance; or

4. The abandonment of required business or businesses.

(24) "Official sign" means a sign located within the highway right-of-way that has been installed by or on behalf of the department or another public agency having jurisdiction.

(25) "Off-premise advertising device" means an advertising device that contains a message relating to an activity or product that is foreign to the site on which the advertising device and message are located or an advertising device erected by a company or individual for the purpose of selling advertising messages for rental income.

(26) "On-premise advertising device":

(a) Means an advertising device that consists solely of the name of the establishment or that identifies the establishment's principal or accessory products or services offered on the property; and

(b) Does not mean an advertising device that brings rental income to the property owner.

(27) "Protected area" means an area:

(a) Within 660 feet of the right-of-way of an interstate, parkway, national highway system, or federal-aid primary highway both in and outside of an urban area; or

(b) Outside of an urban area and beyond 660 feet of the right-of-way of an interstate, parkway, national highway system, or federal-aid primary highway.

(28) "Scenic byway" is defined by KRS 177.572.

(29) "Scenic highway" is defined by KRS 177.572.

(30) "Static advertising device" means an advertising device that does not use electric or mechanical technology to change the message but can include a numerical display changed by an electronic or mechanical process that does not exceed one-half of the message face.

(31) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting lanes of an interchange.

(32) "Unzoned commercial or industrial area" is defined by KRS 177.830(8).

(33) "Urban area" is defined by KRS 177.830(10).

(34) "Urbanized protected area" means an area within 660 feet of the right-of-way of an interstate, parkway, national highway system, or federal-aid primary highway with a population of 50,000 or more as demonstrated by the United States Department of Commerce, United States Census Bureau.

(35) "Visible" means a message:

(a) Or a part of the static advertising device structure capable of being seen, whether or not legible, without visual aid by a person of normal visual acuity on a scenic highway; or

(b) Capable of being seen, whether or not legible, without visual aid by a person of normal visual acuity in a protected area not on a scenic highway. (41 Ky.R. 2456; Am. 42 Ky.R. 351; 1155; eff. 11-5-2015.)